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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,552	04/23/2001	Gebhard Dopfer	GR 98 P 3829 P	4822
24131	7590	03/18/2004	EXAMINER	
LERNER AND GREENBERG, PA			MARKHAM, WESLEY D	
P O BOX 2480			ART UNIT	
HOLLYWOOD, FL 33022-2480			PAPER NUMBER	

1762

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/840,552

Applicant(s)

DOPPER, GEBHARD

Examiner

Wesley D Markham

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached Office Action.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 2-5, 7-20 and 30-33.

Claim(s) withdrawn from consideration: 24-29.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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DETAILED ACTION / ADVISORY ACTION

Response to Amendment

1. Acknowledgement is made of the proposed amendment submitted by the applicant on 3/1/2004, in which the applicant proposed to amend independent Claim 2 and cancel Claims 24 – 29 (non-elected) and 33. However, this amendment has not been entered because it raises new issues that would require further search and/or consideration on the part of the examiner. Specifically, the applicant proposed to amend independent Claim 2 to require “regulating the switching frequency during the coating step” and to eliminate the requirement of “selecting the given frequency from the group consisting of an adjustable frequency and a regulated frequency”. This proposed amendment changes the scope of independent Claim 2 (and therefore the scope of all the claims dependent from it), thereby requiring further search and/or consideration. Claims 2 – 5, 7 – 20, and 24 – 33 remain pending in U.S. Application Serial No. 09/840,552, with Claims 24 – 29 being withdrawn pursuant to a restriction requirement. The examiner also notes that, in the proposed amendment submitted by the applicant on 3/1/2004, the complete text of Claim 33 (which the applicant proposed to cancel as indicated by the “Canceled” status identifier) is shown. This is non-compliant with the new amendment practice (i.e., Claim 33 should be listed as “Canceled”, but the text of Claim 33 should not be presented).

Response to Arguments

2. Applicant's arguments filed on 3/1/2004 have been fully considered but they are not persuasive. Specifically, the applicant's arguments are drawn to the claims as proposed by the applicant in the after-final amendment dated 3/1/2004. Since this amendment has not been entered for the reasons set forth in paragraph 1 above, the applicant's arguments are moot, and the claims of the instant application stand rejected based on the grounds set forth in the previous Office Action (i.e., the final Office Action mailed on 11/28/2003).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesley D Markham whose telephone number is (571) 272-1422. The examiner can normally be reached on Monday - Friday, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (571) 272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Art Unit: 1762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Wesley D Markham
Examiner
Art Unit 1762



MICHAEL BARR
PRIMARY EXAMINER